

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF WEST VIRGINIA

RAYMOND EDWARD GILL,

Plaintiff,

v.

Civ. Action No.1:20-CV-139  
(Kleeh)

BRYAN ANTONELLI, Warden; WEST  
VIRIGNIA; STATE OF MARYLAND; and  
DISTRICT OF COLUMBIA,

Defendants.

ORDER ADOPTING REPORT AND RECOMMENDATION [DKT. NO. 4], AND  
DISMISSING COMPLAINT [DKT. NO. 1] WITHOUT PREJUDICE

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On July 15, 2020, pro se Plaintiff, Raymond Edward Gill ("Gill" or "Plaintiff"), filed a civil rights Complaint pursuant to 42 U.S.C. §1983. The Clerk of Court issued a Notice of Deficient Pleading, advising Plaintiff to pay the full filing fee of \$400 or file a motion to proceed as a pauper with supporting documents [Dkt. No. 3].

Pursuant to Local Rule of Prisoner Litigation Procedure ("LR PL P") 2, the case was referred to the magistrate judge for a preliminary review and report and recommendation ("R&R"). The R&R was issued on July 17, 2020, and recommended that Plaintiff's Complaint be dismissed without prejudice under the Prison Litigation Reform Act of 1995 ("PLRA") and its three-strikes rule [Dkt. No. 4]. The magistrate judge specifically found that at

least three of Plaintiff's prior civil cases qualify as strikes under the PLRA's three-strikes provision of 28 U.S.C. § 1915(g), and that his Complaint in this matter must be dismissed without prejudice [Id. at 2-5].

The R&R also informed the parties that they had "fourteen days from the date of entry of this Report and Recommendation within which to file with the Clerk of this Court, specific written objections, identifying the portions of the Report and Recommendation to which objection is made, and the basis of such objection" [Dkt. No. 4 at 6]. It further warned them that the "[f]ailure to file written objections . . . shall constitute a waiver of de novo review by the District Court and a waiver of appellate review by the Circuit Court of Appeals" [Id.]. Petitioner accepted service of the R&R on July 28, 2020 [Dkt. No. 7]. To date, no objections have been filed. Plaintiff filed a Motion to Withdraw Motion [Dkt. No. 6], which is a single page document that contains no objections.

When reviewing a magistrate judge's R&R, the Court must review de novo only the portions to which an objection has been timely made. 28 U.S.C. § 636(b)(1)(C). Otherwise, "the Court may adopt, without explanation, any of the magistrate judge's recommendations" to which there are no objections. Dellarcirprete v. Gutierrez, 479 F. Supp. 2d 600, 603-04 (N.D.W. Va. 2007) (citing Camby v. Davis, 718 F.2d 198, 199 (4th Cir. 1983)). Courts will

uphold portions of a recommendation to which no objection has been made unless they are clearly erroneous. See Diamond v. Colonial Life & Accident Ins. Co., 416 F.3d 310, 315 (4th Cir. 2005).

Because no objections were filed, the Court is under no obligation to conduct a de novo review. Accordingly, the Court reviewed the R&R for clear error. Upon careful review, and finding no clear error, the Court **ADOPTS** the R&R [Dkt. No. 4]. The Plaintiff's civil rights Complaint is **DISMISSED WITHOUT PREJUDICE**.

The Court further **DIRECTS** the Clerk to enter judgment in favor of Defendants and to **STRIKE** this matter from the Court's active docket.

It is so **ORDERED**.

The Clerk is directed to transmit copies of this Order to counsel of record and to the pro se Plaintiff, via certified mail, return receipt requested, at the last known address as shown on the docket.

**DATED:** March 26, 2021

/s/ Thomas S. Klee  
THOMAS S. KLEE  
UNITED STATES DISTRICT JUDGE